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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 TRAVIS L. MONTGOMERY,) Civil No.12cv00248 AJB (DHB)
11)
12 Petitioner,)
13 v.) ORDER DENYING PETITIONER'S
14 UNNAMED RESPONDENTS,) REQUEST FOR A CERTIFICATE OF
15 RON BARNES, EDMUND G. BROWN, JR.,) APPEALABILITY
16 and MATTHEW CATE, *Secretary*,)
17)
18 Defendants.) [Doc. No. 19]
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17 Presently before the court is petitioner Travis L. Montgomery's pro se request for a certificate of
18 appealability. (Doc. No. 19). Petitioner's request was included in his Notice of Appeal to the Ninth
19 Circuit Court of Appeals. (Doc. No. 18).

20 On November 1, 2012, this Court issued an opinion and order adopting Magistrate Judge
21 Bartick's report and recommendation and denied the petition for writ of habeas corpus. In the same
22 order, the Court also denied Petitioner a certificate of appealability. Because the Court has already ruled
23 on this issue, the court construes the instant motion as a motion for reconsideration of the November 1,
24 2012, order.

25 "Reconsideration is appropriate if the district court (1) is presented with newly discovered
26 evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an
27 intervening change in controlling law." *School Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir.
28 1993); *see also* Fed. R. Civ. P. 59(e); Fed. R. Civ. P. 60(b). Similarly, a motion for reconsideration is


1 "an improper vehicle to introduce evidence previously available or to tender new legal theories."
2 *Christie v. Iopa*, 176 F.3d 1231, 1239 n. 5 (9th Cir. 1999) (quoting *Bally Export Corp. v. Balicar, Ltd.*,
3 804 F.3d 398, 404 (7th Cir. 1986)).

4 Petitioner has not presented any new evidence in his motion to reconsider. Nor has Petitioner
5 pointed to an intervening change in controlling law. In fact, Petitioner does not address the Court's
6 previous denial of a certificate of appealability or the Court's basis for denial at all. Accordingly,
7 reconsideration is not appropriate in this instance.

8 For these reasons, it is ORDERED that Petitioner's request for a certificate of appealability be,
9 and it hereby is, DENIED.

10 IT IS SO ORDERED.

11
12 DATED: November 29, 2012

13 
14 Hon. Anthony J. Battaglia
U.S. District Judge